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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,082	03/08/2001	Frank F. Schmeyer	35352.0181/1	5338

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NEAL, GERBER, & EISENBERG
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CHICAGO, IL 60602

EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/802,082	SCHMEYER, FRANK F.	
	Examiner	Art Unit	
	DANIEL LASTRA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 17-23 have been examined. Application 09/802,082 (System and method for providing consumer rewards) has a filing date 03/08/2001 and Claims Priority from Provisional Application 60221468 (07/26/2000). Assignor: Transmedia Network Inc and Assignee: Idine Rewards Network Inc.

Response to Amendment

2. In response to Non Final Rejection filed 10/04/2005, the Applicant filed an Amendment on 08/22/2006, which amended claims 17 and 18.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Feidelson (US 6,345,261).

As per claim 17, Feidelson teaches:

A method for allowing a consumer to receive benefits associated with an incentive program created by a business, the method comprising:

accepting via a network a registration of a *member* consumer entitling the *member* consumer to benefits of the incentive program, the registration including

Art Unit: 3622

information indicative of a credit card of the *member* consumer (see column 8, lines 1-13);

comparing credit card transactional information *representative of a plurality of transactions* with the information indicative of the credit card of the *member* consumer to determine if *one of the transactions was performed by* the *member* consumer at the business (see column 10, line 51 – col 11, line 30);

and rewarding the *member* consumer in accordance with the benefits of the incentive program if it is determined in the step of comparing that the *member* consumer did perform a transaction at the business (see column 11, lines 5-45).

As per claim 18, Feidelson teaches:

A computer-readable media having instructions for determining if a transaction by a member consumer meets a requirement of a rewards program of a member business, the instructions performing steps comprising:

receiving transaction information including information identifying a *plurality of consumers where at least one of the consumers is not the member consumer*, information identifying a *plurality of businesses, where at least one of the businesses is not the member business*, information pertaining to the purchase of a goods or service by *each of plurality of consumers at one of the businesses*, and information pertaining to the use of credit card by *each of the consumers at each of the businesses* comprising an identifier for the *respective* business and a credit card number for the *respective* consumer (see column 10, line 52 – col 11, line 30);

Art Unit: 3622

determining if *one of* the consumers identified in the transaction information is the member consumer (see column 11, lines 5-30);

determining if *one of* the businesses identified in the transaction information is the member business (see column 11, lines 5-30; col 13, lines 19-50); and

if it is determined that the consumer is the member consumer and the business is the member business, *rewarding the member consumer in accordance* with the requirements of the rewards program of the member business (see col 13, lines 20-65).

As per claim 19, Feidelson teaches:

The computer-readable media as recited in claim 18, wherein the identifier for the business is compared against a list of identifiers of member businesses to determine if the business is the member business and the credit card number of the consumer is compared against a list of credit card numbers of member consumers to determine if the consumer is the member consumer (see col 11, lines 5-30).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson (US 6,345,261) in view of Walker (US 6,327,573).

As per claim 20, Feidelson fails to teach:

The computer-readable media as recited in claim 19, wherein the information pertaining to the purchase of a good or service by the consumer at the business comprises a day of sale and a time of sale. However, Walker teaches a system that evaluates the time and day of consumers' transactions in order to give said consumers awards, which are time restricted (see Walker figure 4b item 460; col 11, lines 47-65). Therefore, it would have obvious to a person of ordinary skill in the art at the time the application was made, to know that Feidelson's administrator system would use the credit card and member information from registration form to identify member purchases at participating businesses and would identify the time and day of said purchases in order to give members awards which are time restricted.

As per claim 21, Feidelson fails to teach:

The computer-readable media as recited in claim 20, wherein the requirement of the rewards program comprises a specification that a transaction must occur on a predetermined day and the day of sale is compared against the predetermined day to determine if the requirement of the rewards program was met. However, Walker teaches a system that evaluates the time and day of consumers' transactions in order to give said consumers awards, which are time restricted (see Walker figure 4b item 460; col 11, lines 47-65). Therefore, it would have obvious to a person of ordinary skill in the art at the time the application was made, to know that Feidelson's administrator system would use the credit card and member information from registration form to identify member purchases at participating businesses and would identify the time and day of said purchases in order to give members awards which are time restricted.

Art Unit: 3622

As per claim 22, Feidelson fails to teach:

The computer-readable media as recited in claim 21, wherein the requirement of the rewards program comprises a specification that a transaction must occur during a predetermined time and that the member consumer make a reservation to transact business during the predetermined time, and the time of sale is compared against the predetermined time and the reservation time to determine if the requirements of the rewards program were met. However, Walker teaches a system that evaluates the time and day of consumers' transactions in order to give said consumers awards, which are time restricted (see Walker figure 4b item 460; col 11, lines 47-65). Therefore, it would have obvious to a person of ordinary skill in the art at the time the application was made, to know that Feidelson's administrator system would use the credit card and member information from registration form to identify member purchases at participating businesses and would identify the time and day of said purchases in order to give members awards which are time restricted.

As per claim 23, Feidelson fails to teach:

The computer-readable media as recited in claim 22, wherein comparing the time of sale to the reservation time comprises examining the time of sale to determine if it falls within a window of time based upon the reservation time. However, Walker teaches a system that evaluates the time and day of consumers' transactions in order to give said consumers awards, which are time restricted (see Walker figure 4b item 460; col 11, lines 47-65). Therefore, it would have obvious to a person of ordinary skill in the art at the time the application was made, to know that Feidelson's administrator system

Art Unit: 3622

would use the credit card and member information from registration form to identify member purchases at participating businesses and would identify the time and day of said purchases in order to give members awards which are time restricted.

Response to Arguments

5. Applicant's arguments with respect to claims 17-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

Art Unit: 3622

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL
Daniel Lastra
October 21, 2006


RAQUEL ALVAREZ
PRIMARY EXAMINER